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| 09/474,576      | 12/29/1999  | CASSANDRA J. MOLLETT | FDC-0140-PUS        | 2400             |

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EXAMINER

RUDY, ANDREW J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/474,576

Applicant(s)

MOLLETT ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2002 and 23 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-8 are pending. Applicant's 24 September 2002 and 23 October 2002 Amendments have been entered.

### ***Response to Amendment***

#### ***Drawings***

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 23 October 2002 have been approved.

### ***Claim Rejections - 35 USC § 103***

3. Applicant's comments have been reviewed regarding the 35 U.S.C. 103(a) rejection set forth in Paper No. 5. This rejection is withdrawn.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 7, "the information" lacks antecedent basis and is not clear what is being referenced. Applicant's comments have been reviewed, and are convincing regarding "the check writer" (Examiner regret is expressed regarding this matter), but are not convincing regarding "the information" from Paper No. 4, paragraph 4. It is noted that Applicant's claim "negative information" from claim 1, lines 2, 4, 6, 10 and 13, yet only claims "information" from claim 1, line 7. Thus, there is an inherent inconsistency and the Examiner is not certain that "the information" recited from line 7 is indeed the "negative information" recited elsewhere in the claim. Thus, it is not clear what is being referenced.

Applicant's 24 September 2002 Amendment to Claim 4 and related comments are convincing to remove the antecedent basis issues referenced from Paper No. 4 regarding claim 4. However, the following phrases from claim 4, lines 4, 6, 8, 10 and 13, the phrases "a first mechanism" - "a second mechanism" - "a third mechanism" - "a fourth mechanism" and "a fifth mechanism" are not clear in juxtaposition with the descriptive portion of the specification and the drawings as each of these mechanisms are not clearly set forth. As is, it is not clear what information is being referenced in this claim.

Claim 5, lines 1 "a sixth mechanism" is not clear in juxtaposition with the descriptive portion of the specification and the drawings as each of these mechanisms are not clearly set forth. As is, it is not clear what information is being referenced in this claim.

Correction is required. No new matter may be entered. Applicant is reminded of the drawing requirements incorporating claimed subject matter.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the claim language does not preclude everything from being done in ones head. The receiving, processing, classifying, removing, retaining, labeling, storing and implementing reiterated in the claims do not preclude each from being done in ones mind alone or in combination with pen and pencil. Also, the six “mechanisms” from claims 4 and 5 and the database from claim 8, may be no more than that of a person using a pen and paper with the calculations being done in ones head.

Further, no technological art is presently claimed.

It is noted that if Applicant elects to address these matters the Abstract will also have to be corrected to reflect a technological art claim limitation.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-8, as understood, are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Deaton et al., US 6,424,949 or Deaton, US 2002/0073019.

10. Claims 1-3, as understood, are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Stinson et al., US 6,145,738 or 6,045,039 or Page, US 6,464,134.

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11. Claims 1-3, as understood, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Creekmore, US 4,187,498 or 4,109,238.

12. A further pertinent reference of interest:

Swartz US Patent No. 5,877,485, discloses factors used for identification information.

### *Conclusion*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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December 30, 2002

